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SUBJECT: MONTENEGRO PUSHES MAJOR CRIMINAL JUSTICE REFORMS

REF: (A) PODGORICA 0014 (B) PODGORICA 0013

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¶11. (SBU) SUMMARY: After months of deliberation, Montenegro's Justice Ministry has finalized the text of a revised Criminal Procedure Code. The GoM also has taken steps to establish its first-ever multi-agency investigative task force. The revised code will bring far-reaching changes to Montenegro's criminal justice system, introducing prosecutor-led investigations, plea bargaining, and a reversal in the burden of proof in money laundering cases. The new task force -- or "Joint Investigative Team" -- will bring together police, financial intelligence, customs, and tax investigators under the leadership of the special prosecutor for organized crime and corruption. The task force, especially when reinforced with the revised code, will provide the authorities with a potent tool to use against major organized crime networks. The U.S. and other donors are coordinating training and assistance for both initiatives. The international community will also be watching intently to see how -- or if -- Montenegro uses these new tools. END SUMMARY.

New Criminal Procedure Code for Montenegro

¶12. (SBU) Minister of Justice Miras Radovic met with Ambassador and Resident Legal Adviser on 19 February to review progress of major reforms in the criminal justice system. Radovic said that he is pushing to finalize a revamped Criminal Procedure Code without delay and submit it to the cabinet with the recommendation that it be passed into law. The revised code, with over five hundred provisions, will transform Montenegro's criminal justice system. In particular, it abandons the traditional role of the investigative judge, replacing it with a system in which the prosecutor leads the investigation and ultimately brings the case to court. Radovic indicated that plea bargaining will be available for all crimes tried in the countries' fifteen basic courts and all property crimes. He added that the plea bargaining process is expected to improve efficiency in docket management, and if all goes smoothly in the basic courts, could lead to an acceptance of plea bargaining in the two higher courts where organized crime and other serious crimes are tried (i.e., those charges which involve sentences of more than ten years).

13. (SBU) Minister Radovic said that he plans to submit the final draft of the code to the cabinet at the earliest opportunity. However, because of the March 29 elections, the Parliament would not be expected to act on the new legislation until early June. Under the draft bill, the code will become effective one year after the date of passage. This will allow for re-training current judges, prosecutors and police, as well as hiring and training new prosecutors.

Moving Forward on Joint Investigative Task Force

14. (SBU) According to Justice Minister Radovic, formation of the Joint Investigative Team, consisting of police, customs, tax, FIU, and anti-corruption investigators led by a member of the Special Prosecutor's office, may likewise be agreed within the next month. At the request of Chief State Prosecutor Ranka Carapic, RLA had previously provided a model Memorandum of Understanding, under which investigators from six government agencies will pursue complex organized crime and corruption cases. Representatives of each agency will meet in two weeks for an orientation seminar on task force operations, in which the RLA and ICITAP advisor will participate. In a private conversation with the Ambassador on February 13, PM Djukanovic voiced support for the initiative.

15. (SBU) Once up and running, the task force will operate throughout the country, with activities intended to include undercover surveillance, developing informants, forensic accounting and other sophisticated investigative techniques, as well as international cooperation. Chief Special Prosecutor

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Stojanka Radovic has told RLA that she is optimistic each of the agencies expected to participate will sign the proposed Memorandum of Understanding.

COMMENT

16. (SBU) With NATO and EU accession in the forefront of the GoM's foreign policy agenda, rule of law reforms and building judicial capacity are high priorities. Passage of a new Criminal Procedure Code and the establishment of an investigative task force represent major milestones for the GoM. Asset forfeiture, forensic accounting, and witness protection initiatives also will be important components of the overall RoL reform process. It remains to be seen how quickly and effectively the GoM will put these new tools to use. The magnitude of the changes may well place Montenegro's law enforcement authorities on an entirely new level in tackling organized crime, but will likewise present a steep learning curve. One of our top priorities for bilateral assistance, as well as coordination with other international donors, will be helping the GoM ensure that these two initiatives fulfill their potential. End comment.

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